Y15: Preservation and Disposition Seminar Qualified Contracts

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Qualified Contract Requirements

- Treasury Decision 9587
- New § 1.42-18
  - Applies to requests to Agency on or after May 3, 2012
- Extended-use period terminates if Agency is unable to present a qualified contract

Qualified Contract Requirements

- Qualified contract is a bona fide contract to acquire the non low-income portion of the building for FMV and the low-income portion of the building for an amount <u>not less than</u> the applicable fraction in the commitment of the sum of:
  - (1) the outstanding indebtedness,
  - (2) the adjusted investor equity, plus
  - (3) other capital contributions; reduced by cash distributions from (or available for distribution from) the project.

Qualified Contract Requirements

- Agency must present qualified contract within the 1-year period beginning on the date (after the 14th year of the compliance period) the owner submits a written request to Agency.

Qualified Contract Requirements

- Highlights
  - No FMV cap on low-income portion of qualified contract amount
  - Land included in FMV of non low-income portion taking into the extended-use commitment
  - Agency may select appraiser

Qualified Contract Requirements

- More Highlights
  - Cash available for distribution includes reserve funds that are not legally required by mortgage restrictions, regulatory agreements, or third party contractual agreements to remain with the building following the sale of the building.
  - Proceeds from refinancing or additional mortgages in excess of qualifying building costs are not considered cash available for distribution.

Qualified Contract Requirements

- Agency may establish reasonable requirements and determine whether failure to follow requirements prevents beginning of, or tolls, the 1-year qualified contract period
  - Lacks essential information
  - No owner substantiation of representations
  - Limits on multiple owner requests
  - Administrative fees, e.g., appraiser fees
  - Other conditions applicable to the qualified contract consistent with §42

- For further information
  - Contact David Selig at (202) 622-3040